

There are many cases in which parol evidence at the instance of the complainant may be received to rectify a contract in unity, and in which the contract so rectified will be specifically executed.

But if the mistake is the result of the party's own carelessness or inattention, the court will not interfere in his behalf, its policy being to grant relief to the vigilant, and to put all parties upon the exercise of a reasonable degree of diligence.

If the fact be unknown to the parties, or each has equal or adequate means of information in regard to it, and the parties have acted with good faith, equity will not interfere.

In this case an injunction was granted upon the averment in the bill, that defendant offered to compromise a balance appearing to be due the complainant by certain accounts rendered, by the payment of a certain sum, and that in the addition of these accounts there was an error of \$1,000. The answer denied this allegation by averring that defendant's offer was made without any reference to the stated balance, but with reference to the details and items of the account, and to the grounds of the defendant's claims against complainant. **Held**—That equity of the bill is sworn away by this answer and the injunction must be dissolved.

[An injunction was granted upon the bill filed in this case, and after answer, the cause was heard upon motion to dissolve. The facts of the case, and the allegations of the bill and answer are all fully stated in the following opinion of the Chancellor, delivered upon the hearing of this motion.]

THE CHANCELLOR :

The question, and the only question, presented on this motion is, whether the facts constituting the equity of the bill have been denied by the answer, because if so, and the denial is positive, the injunction must be dissolved according to the established law of the court.

The bill in this case alleges that in making up the accounts of the brig "Col. Howard," owned by the defendant, Patterson, an error was committed by the plaintiff's clerk, of one thousand dollars, to his disadvantage, in adding the charges in said account, which are \$1388 09 to the disbursements and advances, which are \$9855 43, making the sum total \$10,243 52, instead of \$11,243 52. That these accounts, with this error therein, were forwarded by the plaintiff from New York, without being examined by him, to Patterson, on the 9th of October, 1849, and that the complainant claimed from Patterson only the bal-